

Appn. No.: 09/964,852
Response dated March 5, 2009
Responsive to Office Action of December 24, 2008

REMARKS/ARGUMENTS

The Office Action mailed December 24, 2008, has been carefully reviewed and these remarks are responsive thereto. Claims 2, 19, 34, 35, and 40 were previously canceled. Claims 1, 18, 21, and 41 have been amended. No new matter has been added. Claims 1, 3-18, 20-33, 36-39, and 41-45 remain pending. Reconsideration and allowance of the instant application are respectfully requested.

As a preliminary matter, a number of the pending claims have been amended so as to present the recited subject matter in a more preferred form and, without admission of any defect, for clarity. Applicants submit that such amendments are unrelated to patentability.

Rejections Under 35 U.S.C. § 103

Claims 1, 3, 4, 10, 15-18, 20, 24, 27, 36, 37, 39, and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,708,961 (“Hylton”), in view of U.S. Pub. No. 2005/0204387 (“Knudson”) and U.S. Pat. No. 5,355,162 (“Yazolino”). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 1 recites, among other features, “. . . subsequent to transmitting the wireless digitally modulated local broadband second transmission, receiving at the gateway a message indicating that the terminal no longer requires the first transmissions, and removing the first transmissions from subsequent transmissions of the wireless digitally modulated local broadband second transmission responsive to the message.”

The Office Action at page 5 correctly indicates that both Hylton and Knudson fail to disclose the features similar to the above-noted features recited in claim 1. The Office Action contends that Yazolino cures the deficiencies of Hylton and Knudson. Applicants respectfully disagree. More specifically, Yazolino at col. 9, line 67 – col. 10, line 27 describes a pickup antenna 136 that detects whether there are electromagnetic emissions from a television set which can be used to conclude that the television set is turned on. In particular, as described in Yazolino at col. 10, lines 16-19, a “TVPwrOn” signal line is kept continuously high if and only if the monitored television set is turned on. Thus, the “TVPwrOn” signal line is driven based on the state of the TV (e.g., ON/OFF).

Appln. No.: 09/964,852
Response dated March 5, 2009
Responsive to Office Action of December 24, 2008

Conversely, (amended) claim 1 relates to receiving a message indicating that the terminal no longer requires the *first transmissions*, and removing the first transmissions from subsequent transmissions of the wireless digitally modulated local broadband second transmission in response to the message. The Yazolino system fails to provide either for the claimed message or for such resolution after receipt of the claimed message.

As Yazolino fails to remedy the deficiencies of Hylton and Knudson, claim 1 is not obvious based on a combination of the references (notwithstanding whether the combination of references is proper).

Dependent claims 3, 4, 10, 15-17, 36, 39, and 42 which each depend from claim 1, are allowable for at least the same reasons as claim 1.

Independent claim 18 recites features similar to those described above with respect to claim 1. As such, claim 18 is allowable for at least substantially similar reasons as discussed above with respect to claim 1.

Claims 20, 24, 27, and 37, which depend from claim 18, are allowable for at least the same reasons as claim 18.

Claims 5, 6, 13, 14, 22, 23, 29, 31 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, in view of Knudson and Yazolino, and further in view of U.S. Pub. No. 2002/0188567 ("Candelore"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 29 recites features similar to those described above with respect to claim 1. Candelore fails to cure the deficiencies of Hylton, Knudson, and Yazolino noted above as discussed in conjunction with claim 1. As such, claim 29 is allowable over the applied references for at least substantially similar reasons.

Claims 5, 6, 13, 14, 22, 23, 31 and 33, which each depend from at least one of claims 1, 18, and 29, are allowable for at least the same reasons as their respective base claims.

Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, in view of Knudson, Yazolino, and Candelore, and further in view of U.S. Pat. No.

Appn. No.: 09/964,852
Response dated March 5, 2009
Responsive to Office Action of December 24, 2008

5,675,647 ("Garmeau"). Applicants respectfully traverse this rejection for at least the following reasons.

Notwithstanding whether any combination of Garmeau, Hylton, Knudson, Yazolino, and Candelore is proper, Garmeau fails to remedy the deficiencies of Hylton, Knudson, Yazolino, and Candelore described above with respect to claim 1. Claims 7-9 depend from claim 1 and are allowable for at least the same reasons as claim 1.

Claims 11, 12, 21, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, in view of Knudson and Yazolino¹, and further in view of U.S. Pat. No. 7,107,605 ("Janik"). This rejection is traversed.

Claims 11, 12, 21, and 28, which each depend from at least one of claims 1 and 18, are allowable for at least the same reasons as their respective base claims because Janik fails to cure the above-noted deficiencies of Hylton, Knudson, and Yazolino with respect to claims 1 and 18 (notwithstanding whether any combination of the references is proper).

Claims 25, 26, 30, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, Kundson, Yazolino, and Janik, and further in view of Candelore. This rejection is traversed.

Claims 25, 26, 30, and 32, which each depend from at least one of claims 1, 18, and 29, are allowable for at least the same reasons as their respective base claims.

Claim 38 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, Kundson, Yazolino, and Candelore, and further in view of U.S. Pat. No. 5,539,822 ("Lett"). This rejection is traversed.

Notwithstanding whether a combination of references incorporating Lett is proper, Lett fails to remedy the deficiencies of the other references described above with

¹ For purposes of this paper, Applicants presume that it was the Office's intention to include Yazolino in the enumeration of references at page 10, paragraph 7 of the Office Action, given the dependency of claims 11-12, 21 and 28 on claims 1 and 18, and the Office's reliance on Yazolino in rejecting claims 1 and 18. Similar remarks apply with respect to the enumeration of references at page 11, paragraph 8 and page 12, paragraph 10.

Appn. No.: 09/964,852
Response dated March 5, 2009
Responsive to Office Action of December 24, 2008

respect to claim 29. Claim 38 depends from claim 29, and as such, is allowable for at least the same reasons as claim 29.

Claims 41 and 43-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hylton, Kundson, and Yazolino, and further in view of U.S. Pub. No. 2003/0101459 (“Edson”). This rejection is traversed.

Independent claim 41 recites features similar to those discussed above with respect to claim 1, and is allowable for at least substantially similar reasons.

Independent claim 43 recites “de-multiplexing a first one of the plurality of multiplexed streams to obtain at least one first discrete service; de-multiplexing a second one of the plurality of multiplexed streams to obtain at least one second discrete service; and generating a wireless digitally modulated local broadband transmission by remultiplexing the at least one first discrete service with the at least one second discrete service.”

At pages 14-15 of Applicants’ “Amendment” filed August 5, 2008, Applicants discussed how the above-noted features recited in claim 43 distinguish over the applied references. Applicants incorporate those remarks herein by way of reference. In short, Hylton fails to disclose features related to generating a wireless digitally modulated local broadband transmission by remultiplexing at least one first discrete service (de-multiplexed from a first one of a plurality of multiplexed streams) with at least one second discrete service (de-multiplexed from a second one of the plurality of multiplexed streams) as recited in claim 43. None of the other references of record (alone or in combination) remedy the deficiencies of Hylton in this respect (notwithstanding whether such a combination of references is proper).

The Office Action at pages 2-3 (“Response to Arguments”) and page 13 fails to address Applicants’ prior remarks with respect to claim 43. In the event that the Office maintains a rejection of claim 43, Applicants respectfully request the Office to explain *how* the references of record allegedly teach the above-noted features recited in claim 43. Applicants respectfully submit that the references fail to teach or suggest such features. As such, claim 43 is allowable.

Appn. No.: 09/964,852
Response dated March 5, 2009
Responsive to Office Action of December 24, 2008

Claims 44 and 45 depend from claim 43, and are allowable for at least the same reasons as claim 43, and further in view of the additional features recited therein.

For example, dependent claim 45 recites features related to receiving from a terminal a selection of at least one of the at least one first discrete service and the at least one second discrete service; and performing a re-multiplexing based on the selection. As discussed above with respect to claim 43, Hylton fails to disclose re-multiplexing at least one first discrete service (de-multiplexed from a first one of a plurality of multiplexed streams) with at least one second discrete service (de-multiplexed from a second one of the plurality of multiplexed streams). As such, Hylton fails to disclose (nor would there be any reason for Hylton to disclose) receiving from a terminal a selection of at least one of the at least one first discrete service and the at least one second discrete service as recited in claim 45. The remaining references fail to remedy this deficiency of Hylton (notwithstanding whether any combination of references is proper), and as such, claim 45 is further allowable for at least these additional reasons.

CONCLUSION

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the Examiner believes the application is not in condition for allowance or there are any questions, the Examiner is requested to contact Applicant's undersigned counsel at (202) 824-3153.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: March 5, 2009

By: /Ross Dannenberg/
Ross Dannenberg, Reg. No. 49,024
1100 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001